

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE JUNE 27, 2005

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1001

Introduced by Assembly Member Nunez

February 22, 2005

An act to amend Section 11713.1 of the Vehicle Code relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Nunez. Vehicles: dealer's licenses: document charges.

Existing law makes it a violation of the Vehicle Code for the holder of any vehicle dealer's license to commit specified actions, including, among other things, to advertise the total price of a vehicle without including all costs to the purchaser at the time of sale, except taxes, vehicle registration fees, the California tire fee, as defined, emission testing fees not exceeding \$50, actual fees charged for certificates, finance charges, and any dealer document preparation charge, and prohibits the dealer document preparation charge from exceeding \$45.

This bill would increase to \$55 the maximum dealer document preparation charge.

The bill would become operative only if AB 68 is enacted and becomes operative.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by its model, model-year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make, model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current when ensuing year models are available for purchase at retail in California. Any advertisement that offers for sale a class of new vehicles in a dealer's inventory, consisting of five or more vehicles, that are all of the same make, model, and model-year is not required to include in the advertisement the vehicle identification numbers or license numbers of those vehicles.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, the California tire fee, as defined in Section 42885 of the Public Resources Code, emission testing fees not exceeding fifty dollars (\$50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed fifty-five dollars (\$55).

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

(2) The obligations imposed by paragraph (1) shall be satisfied by adding to the advertisement a statement containing no abbreviations and that is worded in substantially the following form: "Plus government fees and taxes, any finance charges, any

1 dealer document preparation charge, and any emission testing
2 charge.”

3 (3) For purposes of paragraph (1), “advertisement” means any
4 advertisement in a newspaper, magazine, or direct mail
5 publication that is two or more columns in width or one column
6 in width and more than seven inches in length, or on any Web
7 page of a dealer’s Web site that displays the price of a vehicle
8 offered for sale on the Internet, as that term is defined in
9 paragraph (6) of subdivision (e) of Section 17538 of the Business
10 and Professions Code.

11 (d) Represent the dealer document preparation charge or
12 certificate of compliance or noncompliance fee, as a
13 governmental fee.

14 (e) Fail to sell a vehicle to any person at the advertised total
15 price, exclusive of taxes, vehicle registration fees, the California
16 tire fee, the fee charged by the state for the issuance of any
17 certificate of compliance or noncompliance pursuant to any
18 statute, finance charges, mobilehome escrow fees, the amount of
19 any city, county, or city and county imposed fee or tax for a
20 mobilehome, and any dealer document preparation charge, which
21 charges shall not exceed fifty-five dollars (\$55) for the document
22 preparation charge and fifty dollars (\$50) for emission testing
23 plus the actual fees charged for certificates pursuant to Section
24 44060 of the Health and Safety Code, while the vehicle remains
25 unsold, unless the advertisement states that the advertised total
26 price is good only for a specified time and the time has elapsed.
27 Advertised vehicles shall be sold at or below the advertised total
28 price, with statutorily permitted exclusions, regardless of whether
29 the purchaser has knowledge of the advertised total price.

30 (f) (1) Advertise for sale, sell, or purchase for resale any new
31 vehicle of a line-make for which the dealer does not hold a
32 franchise.

33 (2) This subdivision does not apply to any transaction
34 involving any of the following:

35 (A) A mobilehome.

36 (B) A recreational vehicle as defined in Section 18010 of the
37 Health and Safety Code.

38 (C) A commercial coach, as defined in Section 18001.8 of the
39 Health and Safety Code.

1 (D) An off-highway motor vehicle subject to identification as
2 defined in Section 38012.

3 (E) A manufactured home.

4 (F) A new vehicle that will be substantially altered or modified
5 by a converter prior to resale.

6 (G) A commercial vehicle with a gross vehicle weight rating
7 of more than 10,000 pounds.

8 (H) A vehicle purchased for export and exported outside the
9 territorial limits of the United States without being registered
10 with the department.

11 (g) Sell a park trailer, as specified in Section 18009.3 of the
12 Health and Safety Code, without disclosing in writing to the
13 purchaser that a park trailer is required to be moved by a
14 transporter or a licensed manufacturer or dealer under a permit
15 issued by the Department of Transportation or a local authority
16 with respect to highways under their respective jurisdictions.

17 (h) Advertise free merchandise, gifts, or services provided by
18 a dealer contingent on the purchase of a vehicle. The term “free”
19 includes merchandise or services offered for sale at a price less
20 than the seller’s cost of the merchandise or services.

21 (i) Advertise vehicles, and related goods or services, at a
22 specified dealer price, with the intent not to supply reasonably
23 expectable demand, unless the advertisement discloses the
24 number of vehicles in stock at the advertised price. In addition,
25 whether or not there are sufficient vehicles in stock to supply a
26 reasonably expectable demand, when phrases such as “starting
27 at,” “from,” “beginning as low as,” or words of similar import
28 are used in reference to an advertised price, the advertisement
29 shall disclose the number of vehicles available at that advertised
30 price.

31 For purposes of this subdivision, in any newspaper
32 advertisement for a vehicle that is two model-years old or newer,
33 the actual phrase that states the number of vehicles in stock at the
34 advertised price shall be (1) printed in a type size that is at least
35 equal to one-quarter of the type size, and in the same style and
36 color of type, used for the advertised price, however, in no case
37 shall the phrase be printed in less than 8-point type size, and (2)
38 be disclosed immediately above, below, or beside the advertised
39 price without any intervening words, pictures, marks, or symbols.

The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use the term “rebate” or similar words such as “cash back” in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, “cash price” has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(l) Advertise a guaranteed trade-in allowance.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use the terms “invoice,” “dealer’s invoice,” “wholesale price,” or similar terms that refer to a dealer’s cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer’s or distributor’s invoice price to a dealer.

(B) A dealer’s cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle’s invoice price or the dealer’s cost for that vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a “commercial purchaser” means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising

1 set forth in Part 238 (commencing with Section 238) of Title 16
2 of the Code of Federal Regulations, as those regulations read on
3 January 1, 1988.

4 (p) Make any untrue or misleading statement indicating that a
5 vehicle is equipped with all the factory installed optional
6 equipment the manufacturer offers, including, but not limited to,
7 a false statement that a vehicle is “fully factory equipped.”

8 (q) Affix on any new vehicle a supplemental price sticker
9 containing a price that represents the dealer’s asking price which
10 exceeds the manufacturer’s suggested retail price unless all of the
11 following occur:

12 (1) The supplemental sticker clearly and conspicuously
13 discloses in the largest print appearing on the sticker, other than
14 the print size used for the dealer’s name, that the supplemental
15 sticker price is the dealer’s asking price, or words of similar
16 import, and that it is not the manufacturer’s suggested retail
17 price.

18 (2) The supplemental sticker clearly and conspicuously
19 discloses the manufacturer’s suggested retail price.

20 (3) The supplemental sticker lists each item that is not
21 included in the manufacturer’s suggested retail price, and
22 discloses the additional price of each item. If the supplemental
23 sticker price is greater than the sum of the manufacturer’s
24 suggested retail price and the price of the items added by the
25 dealer, then the supplemental sticker price shall set forth that
26 difference and describe it as “added mark-up.”

27 (r) Advertise any underselling claim, such as “we have the
28 lowest prices” or “we will beat any dealer’s price,” unless the
29 dealer has conducted a recent survey showing that the dealer sells
30 its vehicles at lower prices than any other licensee in its trade
31 area and maintains records to adequately substantiate the claims.
32 The substantiating records shall be made available to the
33 department upon request.

34 (s) Advertise any incentive offered by the manufacturer or
35 distributor if the dealer is required to contribute to the cost of the
36 incentive as a condition of participating in the incentive program,
37 unless the dealer discloses in a clear and conspicuous manner
38 that dealer participation may affect consumer cost.

39 For purposes of this subdivision, “incentive” means anything
40 of value offered to induce people to purchase a vehicle,

1 including, but not limited to, discounts, savings claims, rebates,
2 below-market finance rates, and free merchandise or services.

3 (t) Display or offer for sale any used vehicle unless there is
4 affixed to the vehicle the Federal Trade Commission's Buyer's
5 Guide as required by Part 455 of Title 16 of the Code of Federal
6 Regulations.

7 (u) Fail to disclose in writing to the franchisor of a new motor
8 vehicle dealer the name of the purchaser, date of sale, and the
9 vehicle identification number of each new motor vehicle sold of
10 the line-make of that franchisor, or intentionally submit to that
11 franchisor a false name for the purchaser or false date for the date
12 of sale.

13 (v) Enter into a contract for the retail sale of a motor vehicle
14 unless the contract clearly and conspicuously discloses whether
15 the vehicle is being sold as a new vehicle or a used vehicle, as
16 defined in this code.

17 (w) Use a simulated check, as defined in subdivision (a) of
18 Section 22433 of the Business and Professions Code, in an
19 advertisement for the sale or lease of a vehicle.

20 (x) Fail to disclose, in a clear and conspicuous manner in at
21 least 10-point bold type on the face of any contract for the retail
22 sale of a new motor vehicle that this transaction is, or is not,
23 subject to a fee received by an autobroker from the selling new
24 motor vehicle dealer, and the name of the autobroker, if
25 applicable.

26 (y) As used in this section, the terms "make" and "model"
27 have the same meaning as is provided in Section 565.3 of Title
28 49 of the Code of Federal Regulations.

29 *SEC. 2. This act shall become operative only if Assembly Bill*
30 *68 is enacted during the 2005–06 Regular Session and becomes*
31 *operative, and enacts the Car Buyer's Bill of Rights.*

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34 **CORRECTIONS:**

35 **Digest — Vote Keys.**

36 **Text — Page 7.**
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